

Message Text

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PAGE 01 KATHMA 00985 031252Z

46

ACTION DHA-02

INFO OCT-01 NEA-10 ISO-00 ORM-02 AID-05 CIAE-00 DODE-00

PM-04 H-02 INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01

SP-02 SS-15 USIA-06 IO-11 EB-07 OMB-01 DPW-01 SCCT-01

TRSE-00 /087 W

----- 103970

R 031013Z MAR 76

FM AMEMBASSY KATHMANDU

TO SECSTATE WASHDC 4412

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AID FOR INFO

E.O. 11652: N/A

TAGS: SHUM, PFOR, PINS, PINT, PORG, EA R, EFIN, NP

SUBJ: HUMAN RIGHTS REPORTING REQUIREMENTS 1976-NEPAL

REF: STATE 045319

1. FOLLOWING IS RESPONSE REQUESTED PARA 12 REFTTEL, ALTHOUGH MISSION DOES NOT CONSIDER THAT NEPAL HAS SERIOUS HUMAN RIGHTS PROBLEM AS DEFINED IN THAT MESSAGE.

2. ALTHOUGH NOMINALLY A CONSITIUTIONAL MONARCHY, NEPAL IS IN FACT ALL BUT ABSOLUTE MONARCHY. IT IS NOT, HOWEVER, A REPRESSIVE REGIME AND BY AND LARGE MONARCHY ACTS AS BENEVOLENT GUARDIAN FOR POPULATION WHICH IS FOR THE MOST PART ILLITERATE AND GENERALLFUUNAWARE OF CONSTITUTIONAL RIGHTS GUARANTEED THEM. THESE RIGHTS INCLUDE ALL TRADITIONAL HUMAN FREEDOMS,SNCLUDING EXPRESSION, ASSEMBLY, RELIGION, AS WELL AS FREEDOM FROM ARBITRARY ARREST. IN PRACTICE MOST OF THESE ARE HONORED IN BREECH BY GOVERNMENT, ALTHOUGH IT IS EXISTENCE OF PUBLIC SECURITY ACT OF 1961 (AMENDED 1963) WHICH HAS RAISED QUESTIONS

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PAGE 02 KATHMA 00985 031252Z

ABOUT HUMAN RIGHTS IN NEPAL IN THE PAST.

3. UNDER THIS ACT PERSONS MAY BE DETAINED UP TO 9 MONTHS IN PREVENTIVE DETENTION WITHOUT CONSENT OF CENTRAL JUDICIAL AUTHORITIES. PERSONS MAY BE HELD UP TO THREE YEARS BY ORDER OF GOVERNMENT, AND ALTHOUGH FURTHER DETENTION IS ILLEGAL WITHOUT EXPRESS AUTHORIZATION OF A THREE MAN APPEALS BOARD, IN PAST PRACTICE SOME HAVE BEEN RELEASED AFTER THREE YEARS ONLY TO BE REARRESTED FOLLOWING DAY TO SERVE NEW THREE YEAR TERM UNDER THE ACT.

4. SINCE THE INVESTITURE OF GOVERNMENT OF DR. TULSI GIRI IN DECEMBER 1. 5 NEARLY 75 PERCENT OF THE 150-175 PERSONS HELD UNDER THE ACT HAVE BEEN RELEASED. FURTHERMORE, THE GOVERNMENT HAS GIVEN ASSURANCES THAT ALL DETAINEES WILL BE FREED BY THE END OF MARCH 1976. THE LOCAL REPRESENTATIVE OF AMNESTY INTERNATIONAL, THE ONLY INTERNATIONAL ORGANIZATION TO HAVE SHOWN AN INTEREST IN HUMAN RIGHTS IN NEPAL TO OUR KNOWLEDGE, IS SATISFIED THAT THE GOVERNMENT WILL MEET THIS PLEDGE AND THAT ALL POLITICAL PRISONERS WILL BE RELEASED.

5. PUBLIC SECURITY ACT HAS BEEN UNDER ATTACK FOR SEVERAL YEARS BY BROAD RANGE OF INTELLECTUALS AND POLITICAL FIGURES WHO ARGUE THAT IT IS DESIGNED FOR USE ONLY IN GRAVE DOMESTIC CRISIS AND THAT ITS ARBITRARY USE BY LOCAL AND NATIONAL GOVERNMENTS TO SUPPRESS POLITICAL DISSENT IS ILLEGAL. PRIME MINISTER HAS GIVEN ASSURANCES THAT HE WILL NOT ABUSE THE POWER OF THE ACT. WE ARE NOT AWARE OF HIS HAVING INVOKED IT SINCE COMING INTO OFFICE.

6. GIRI, FURTHERMORE, HAS TAKEN OVER CONTROL OF THE SPECIAL POLICE, AN INVESTIGATORY BRANCH PREVIOUSLY UNDER POLICE CONTROL IN ORDER TO CARRY OUT HIS POLICIES OF "WEEDING OUT CORRUPTION." THIS, WE BELIEVE, MAY SERVE AS AN IMPORTANT SANCTION AGAINST POSSIBLE POLICE EXCESSES SUCH AS THOSE WHICH OCCURRED TWO YEARS AGO IN THE FACE OF A MOUNTING TERRORIST THREAT. AT THAT TIME SEVERAL SUSPECTED AND KNOWN TERRORISTS WERE REPORTED "SHOT WHILE ATTEMPTING TO ESCAPE." SUBSEQUENT POLICE INVESTIGATIONS CAME TO NOTHING. A TRULY INDEPENDENT INVESTIGATOR AGENCY, LIMITED OFFICIAL USE

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PAGE 03 KATHMA 00985 031252Z

HOWEVER, WILL MAKE POLICE AUTHORITIES THINK TWICE.

7. IN A NUMBER OF CASES FORMER POLITICAL PRISONERS KNOWN TO THE EMBASSY HAVE CONFIRMED THAT TORTURE OR INHUMAN PUNISHMENT IS NOT CONDONED BY THE GOVERNMENT. JAIL CONDITIONS ARE, HOWEVER, PRIMITIVE AND WE WOULD EXPECT THAT NEPAL HAS THE SAME RATIO OF SADISTIC JAIL AUTHORITIES AS OTHER, MORE DEVELOPED NATIONS. THERE HAVE BEEN NO REPORTS

OF INHUMAN TREATMENT, HOWEVER, BROUGHT TO OUR ATTENTION.
GIVEN LOCAL CONDITIONS, POLITICAL PRISONERS IN THE PAST HAVE BEEN
GIVEN PREFERENTIAL TREATMENT
S(CONJUGAL VISITS, FREEDOM OF
CORRESPONDENCE, AND RIGHT TO FOOD BROUGHT FROM HOME.)
ALTHOUGH NOT A HAPPY EXPERIENCE, THOSE PRISONERS WHICH WHOM
WE HAVE TALKED DENY ILL TREATMENT.

8. AS REPORTED ABOVE ONLY AMNESTY INTERNATIONAL HAS
EVIDENCED INTEREST AND CONCERN OVER THE HUMAN RIGHTS QUESTION
IN NEPAL. THE MISSION HAS, FROM TIME TO TIME, RAISED
THIS ISSUE WITH GOVERNMENT AUTHORITIES NOT ONLY IN
REGARD TO QUESTIONS OF CONTINUED ECONOMIC ASSISTANCE,
BUT ALSO WITH REFERENCE TO SPECIFIC CASES BROUGHT TO
OUR ATTENTION. IN ALL INSTANCES THE GOVERNMENT HAS
PROVIDED INFORMATION REASONABLY QUICKLY
AND HAS GIVEN ASSURANCES THAT IT WILL CONTINUE TO
RESPECT HUMAN RIGHTS WITHIN THE FRAMEWORK OF THE NATION'S
LEGAL SYSTEM.

9. POLITICAL PARTIES HAVE BEEN BANNED IN THE COUNTRY
SINCE THE EARLY 1960S, A SITUATION WHICH RESULTED IN
THE EXILE OF A LEADING POLITICAL PARTY, THE NEPALI
CONGRESS PARTY. THE EXTREME WING OF THAT GROUP HAS
INSTIGATED A NUMBER OF ARMED ATTACKS FROM INDIA AND HAS
BEEN HELD RESPONSIBLE FOR TERRORIST ATTACKS. SINCE
DECEMBER 1975 THESE HAVE CEASED, AND THE GOVERNMENT
APPEARS TO HAVE CONSIDERABLE CONFIDENCE IN ITS ABILITY
TO CONTROL TERRORISM WITHOUT RESORT TO EXTREME OR INHUMAN
MEASURES. UNLESS THIS THREAT TO ITS STABILITY WERE TO
MARKEDLY INCREASE, WE BELIEVE THAT THE PRESENT GOVERN-
MENT WILL CONTINUE TO HONOR THE BASIC RIGHTS GUARANTEED
THE POPULATION BY THE CONSTITUTION AND OTHER LAWS.
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PAGE 04 KATHMA 00985 031252Z

10. IN SUMMARY WE DO NOT BELIEVE THAT NEPAL CAN BE
ACCUSED OF FLAGRANT AND CONSISTENT ABUSES OF HUMAN
RIGHTS AND THAT ITS RECORD, BY NO MEANS PERFECT, IS
AS GOOD OR BETTER THAN OTHER, MORE NOMINALLY
DEMOCRATIC REGIMES, IN THE AREA. MORE DETAILED AIRGRAM
FOLLOWS BY POUCH. CARGO

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: HUMAN RIGHTS, REPORTS
Control Number: n/a
Copy: SINGLE
Draft Date: 03 MAR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: morefirh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976KATHMA00985
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760081-0262
From: KATHMANDU
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t197603100/aaaadkiv.tel
Line Count: 161
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION DHA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 45319
Review Action: RELEASED, APPROVED
Review Authority: morefirh
Review Comment: n/a
Review Content Flags:
Review Date: 17 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <17 JUN 2004 by BoyleJA>; APPROVED <08 JUL 2004 by morefirh>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: HUMAN RIGHTS REPORTING REQUIREMENTS 1976-NEPAL
TAGS: SHUM, PFOR, PINS, PINT, PORO, EFIN, NP
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006